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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/082,245 | 02/26/2002 | Daniel E. Ford | 10014526-1 | 3479 |

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HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

EXAMINER

SWEARINGEN, JEFFREY R

| ART UNIT | PAPER NUMBER |
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2145

DATE MAILED: 04/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/082,245

Applicant(s)

FORD ET AL.

Examiner

Jeffrey R. Swearingen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4-10,24-26 and 33-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4-10,24-26 and 33-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/27/2006 has been entered.

Response to Arguments

2. Applicant's amendments overcame the outstanding rejections under 35 U.S.C. 112, second paragraph.

3. Applicant failed to persuasively rebut the rejection under 35 U.S.C. 103(a).

4. Applicant argued that the context of Brown taught that logging had to occur remotely. The act of logging remotely was more difficult to perform than the act of logging locally, since network transmission was involved. Applicant admitted that the '190 patent gave motivation for alternate logging locations in the remarks, page 4.

5. The citation of column 5 is restated here: *The event logging system is also designed to permit the operator to configure where the events are actually logged to promote flexibility in resource allocation: At step 106, the event information is logged in the selected database, which might be located at the headend [22] or another remote location.* Consideration of context showed that such an alternate logging location ***might*** be remote. The skilled artisan would recognize that if a database could be located remotely for storing information, then it could also be located locally.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1, 4-10, 24-25, and 33-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown (U.S. Patent No. 5,857,190).

8. In regard to claim 1, Brown discloses *receiving a notice of locally-originated loggable information* and logging said information as shown in Brown, Figures 2 and 4, column 2, lines 36-56, and column 2, lines 59-66. Brown discloses selectively making an entry in a log, as shown in column 5, lines 25-29 and lines 43-50. Brown discloses selectively making an entry in a remote log according to a separate criterion in column 7, lines 62-67 (based on reporting at specified times or when a selected number of events have been recorded therein). Brown discloses logging, but fails to explicitly disclose that logging can be performed locally. Brown does state that the components of the event system can be distributed over the entertainment network system (column 7, lines 32-33), the events can be forwarded to an alternate location (column 7, lines 46-53), a locally-based event evaluator for screening the events (column 5, lines 43-45), and that the operator can configure where the events are actually logged (column 5, lines 37-40). Since Brown has given both motivation for alternate logging (flexibility in resource allocation, column 5, lines 39-40) and the ability to configure where the events are logged (column 5, lines 37-40), it would be obvious to one of ordinary skill in the art to include local logging capability within Brown to allow for backup storage of events and to allow storage of events in case of a lost connection with a remote logging service.

9. In regard to claim 4, Brown is applied as in claim 1. Brown logs events in the remote log based on the number of events (criterion having been satisfied) received by an event buffer, which is different from determining whether an item is "loggable" in the Brown invention. See Brown, column 7, lines 62-67. This is *selectively making an entry in a remote log contingent upon said first criterion having been satisfied*.

10. In regard to claim 5, Brown is applied as in claim 1. Brown further discloses *wherein said first criterion and said second criterion are respective levels of information priority*. The first criterion in Brown

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as shown in claim 1 is determining whether an event is “loggable”. The second criterion in Brown is based upon when the event occurred and how many events have occurred since the last batch remote logging. These are *respective levels of information priority*.

11. In regard to claims 6-7, Brown is applied as in claim 5. Brown fails to disclose assigning numbers in a certain fashion to priority level information and using those numbers with predetermined values in order to filter events. However, Brown does disclose assigning numbers to priority level information and using that number to partition events so the administrator can “selectively determine the level of events that are reported” in column 6, lines 25-33. It would have been obvious to one of ordinary skill in the art to assign numbers in any way to priority levels and use them to filter information using any method, because assigning numbers in any specific order and deciding which ones in a group to select based upon their number is basic mathematics.

12. In regard to claim 8, Brown is applied as in claim 1. Brown further discloses use of a storage area network, as illustrated in the usage of “distribution network” in the abstract, Figure 1, and the descriptions given in column 3, lines 7-44 and column 4, lines 8-11.

13. In regard to claim 9, Brown is applied as in claim 1. Brown further discloses *said first criterion is a level of information priority*. See Brown, column 5, line 43 – column 6, line 33.

14. Claim 10 meets the same limitations of claims 1 and 4, and their rejections are likewise applicable against claim 10.

15. Claim 24 meets the same limitations of claim 1, and the rejection of claim 1 is likewise applied against claim 24.

16. Claim 25 meets the same limitations of claim 1, and the rejection of claim 1 is likewise applied against claim 25.

17. Claim 33 meets the same limitations of claim 4, and the rejection of claim 1 is applied against claim 33.

18. Claim 34 meets the same limitations of claim 5, and the rejection of claim 5 is applied against claim 34.

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19. Claim 35 meets the same limitations of claim 8, and the rejection of claim 8 is applied against claim 35.

20. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brown in view of Nemitz (U.S. Patent No. 6,381,712).

21. In regard to claim 26, Brown is applied as in claim 25. Brown fails to disclose the use of JINI or JCORE distributed computing technology. However, Nemitz discloses the use of JINI for error detection. See Nemitz, column 3, lines 13-48. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Brown with Nemitz for the purpose of avoiding drivers and connection procedure and adding devices freely to a self-managing network (Nemitz, column 3, lines 13-21). Brown gives motivation for the combination by stating that in order for remote logging to occur, computers must know what devices are going to log events. (Brown, column 2, lines 1-7). By adding a device without connection procedures, but rather by using JINI, Brown would easily be able to detect other devices on the network. The art is analogous because both Brown and Nemitz deal with error detection and notification.

Conclusion

22. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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|-----|-----------------|-------------------|
| 23. | Dunn | US 5659596 |
| 24. | Cabrera et al. | US 5953729 |
| 25. | Liu et al. | US 6170067 B1 |
| 26. | Lawson et al. | US 6185613 B1 |
| 27. | Liu et al. | US 6243838 B1 |
| 28. | Dugan et al. | US 6425005 B1 |
| 29. | Sinclair et al. | US 6876995 B1 |
| 30. | Sanghvi et al. | US 20020019886 A1 |
| 31. | Morris et al. | US 20020065948 A1 |

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32. Lee, I. et al. "Error/Failure Analysis Using Event Logs from Fault Tolerant Systems." 21st International Symposium on Fault-Tolerant Computing. IEEE Press. June 1991. pp. 10-17.
33. Gunter, D. et al. "NetLogger: A Toolkit for Distributed System Performance Analysis." 8th International Symposium on Modeling, Analysis and Simulation of Computer and Telecommunication Systems. IEEE Press. September 2000. pp. 267-73.
34. Simache, C. et al. "Event Log based Dependability Analysis of Windows NT and 2K Systems." Proceedings of the 2002 Pacific Rim International Symposium on Dependable Computing. December 2002. pp. 311-15. IEEE Press.
35. Simmons, D.G. et al. "NERD: Network Event Recording Device: An Automated System for Network Anomaly Detection and Notification." Proceedings of the Symposium on Network and Distributed System Security, 1995. IEEE Press. February 1995. pp. 87-93.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey R. Swearingen whose telephone number is (571) 272-3921. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cardone can be reached on 571-272-3933. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jason Cardone
Supervisory Patent Examiner
Art Unit 2145